

REMARKS/ARGUMENTS

35 U.S.C. §112 Response

Claims 1 – 20 are presented for consideration. The Examiner previously rejected the presented Claims 1 – 20 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Using a scraper that conforms to the internal shape of the barrel is provided in the written description and was well-known in the art as evidenced by United States Design Patent No. D393,115 which was incorporated by reference. This is reiterated in the present invention. Specifically, the scraper is shown and described as having a circular shape, which is consistent with the internal shape of the barrel of a paintball marker. Specifically, Applicant described the scraper as being pulled into a perpendicular position as shown in Figures 25 and 26, providing a cleaning edge consistent with the internal shape of the barrel. See page 11, lines 4 – 7 of Applicant's Disclosure. Therefore, Applicant requests that the Examiner's rejection be withdrawn as the limitation is clearly provided in the specification.

35 U.S.C §§ 102 - 103

The Examiner objected to the presented Claims 1 - 20 under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) as being anticipated by Lops as the principal reference. Applicant respectfully traverses the Examiner's rejections to the claims as follows.

Claim 1 – 8 and Claims 11 – 19 have been rejected under 35 U.S.C. §102(b) as being anticipated by Lops. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

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Verdegaal Bros. V. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Even the basic elements of the independent claims are not taught by Lops.

Lops teaches the use of lotion applicator having a large applicator pad for use in applying lotion to the back of a user. Most importantly, Lops, as shown and described, teaches the use of a flat applicator pad which has a dome-shaped front face and a flat rear surface upon a large rigid surface. As currently amended, in contrast to the teachings of Lops, claim 1 and claims 11 – 12 provide a paintball marker cleaning tool which has a scraper end shaped to clean the inside of the paintball marker barrel. In this manner, the scraper may efficiently remove excess paint or other debris from the interior of the marker barrel. In contrast, the applicator of Lops inherently cannot conform to the interior of a paintball marker barrel in the rigid flat state as shown and described. The applicator of Lops will not and cannot become a circular cleaning edge conforming to the diameter of a paintball marker barrel. Therefore, as Lops does not and cannot show Applicant's cleaning tool, Lops is inappropriate as §102 references for the amended claim 1 and the amended claims 11 – 12 as it does not show every element of the claimed invention. Thus, Applicant respectfully requests that the rejection of Claims 1 – 8 and Claims 11 – 19 under 35 U.S.C. §102(b) be withdrawn.

Claim 1 – 10 and Claim 20 have been rejected under 35 U.S.C. §102(b) as being anticipated by Young. Young teaches the use of cleaning appliance having a large flat planar blade assembly for use in cleaning flat surfaces such as windows and floors, not circular surfaces such as paintball marker barrels. Young, Col. 1, Line 6. Most importantly, Young, as shown and described, teaches the use of a flat blade retained within a flat channel which extends

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perpendicularly. As currently amended, in contrast to the teachings of Young, claim 1 and claim 20 provide a paintball marker cleaning tool which has a circular scraper end to conform to the internal shape of the paintball marker barrel. In this manner, the scraper may efficiently remove excess paint or other debris from the interior of the marker barrel. In contrast, the applicator of Young inherently cannot conform to the interior of a paintball marker in the flat, substantially parallel state as shown and described. Therefore, as Young does not and cannot show Applicant's cleaning tool, Young is inappropriate as §102 references for the amended claim 1 and the amended claim 20 as it does not show every element of the claimed invention. Thus, Applicant respectfully requests that the rejection of Claims 1 – 10 and Claim 20 under 35 U.S.C. §102(b) be withdrawn.

The Examiner further rejected Claims 1 – 9 and Claims 11 – 19 under 35 U.S.C. 103(a) as being unpatentable over Belleau et al. in view of Lops. Claim 1 and Claims 11 - 12 have been amended to transverse this rejection. As mentioned above, Lops fails to teach the use of a scraper to which conforms to the internal shape of the paintball marker barrel. The combination of the pivot arm of Belleau et al. and the rigid, dome-shaped lotion applicator of Lops fail to teach a circular cleaning edge which conforms to the internal shape of the paintball marker as disclosed by Applicant. Further, the combination of the applicator end of Belleau et al. having the substantially perpendicular attachment arms for the applicator pad and the dome-shaped applicator pad of Lops fail to teach Applicant's circular cleaning edge conforming to the interior of a barrel as the attachment of Lops's applicator pad to Belleau's flat attachment arms inherently provides a cleaning tool which cannot conform to the interior shape of a paintball marker barrel. As stated previously, the claims of Applicant's invention are expressly drawn and

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limited to a circular cleaning edge which conforms to the diameter of the paintball marker barrel. Neither the prior art cited by the Examiner nor the hypothetical combination of Belleau et al. and Lops teach the use of a scraper or cleaner which conforms to the internal shape of a paintball marker barrel.

Further, it is improper to combine references without a teaching, motivation, or suggestion found in the prior art for combining the references. As noted by the substantial authority covered in MPEP § 2145, § 2143.01, and the decisions of the Federal Circuit, it is improper to use the present application as a means for suggestion for combining the prior art references. No cited references showing a motivation for a 'skill in the art' combination or any reference with a 'means of suggestion' has been cited for combining any of these patents. "Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in the references themselves or in the knowledge generally available to one of ordinary skill in the art." MPEP § 2143.01 (*citing In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988)). Nowhere does the Examiner particularly identify any suggestion, teaching, or motivation to combine the prior art references, nor does the Examiner make specific findings concerning the identification of the relevant art, the level of ordinary skill in the art, the nature of the problem to be solved, or other findings to support a proper obviousness analysis. See *In Re Dembiczak*, 50 U.S.P.Q. 1614, 1618 (Fed. Cir. 1999). Because it is improper to use the present application as a means for suggestion for combining the prior art, Applicant respectfully requests claims 1 – 9 and claims 11 – 19 be allowed for issuance.

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Additionally, the combination of the rigid flat attachment arms of Belleau et al. with the applicator material of Lops teaches away from the present invention of Applicant as the hypothetical combination does not produce a cleaning tool which can effectively clean the interior of a paintball marker by conforming to the interior of the barrel. Therefore, Applicant respectfully requests reconsideration of claims 1 – 9 and claims 11 – 19.

The Examiner further rejected Claim 1 – 9 and Claim 11 – 19 under 35 U.S.C. 103(a) as being unpatentable over Lops in view of Mandigo. Claim 1 and Claims 11 - 12 have been amended to transverse this rejection. As mentioned above, Lops fails to teach the use of a scraper which conforms to the internal shape of the paintball marker barrel. The combination of the flat applicator of Mandigo and the rigid, dome-shaped lotion applicator of Lops fail to teach a cleaning device which conforms to the internal shape of the paintball marker as disclosed by Applicant. Further, the combination of the applicator of Mandigo having the substantially perpendicular attachment position for the applicator pad and the dome-shaped applicator pad of Lops fail to teach Applicant's conforming cleaning device of Applicant as the attachment of Lops's applicator pad to Mandigo flat attachment position inherently provides a cleaning tool which cannot conform to the interior shape of a paintball marker barrel. As stated previously, the claims of Applicant's invention are expressly drawn and limited to a scraper which conforms to the internal shape of the paintball marker barrel. Neither the prior art cited by the Examiner nor the hypothetical combination of Mandigo and Lops teach the use of a scraper or cleaner which pivots perpendicularly to conform to the internal shape of a paintball marker barrel.

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Further, it is improper to combine references without a teaching, motivation, or suggestion found in the prior art for combining the references. As noted by the substantial authority covered in MPEP § 2145, § 2143.01, and the decisions of the Federal Circuit, it is improper to use the present application as a means for suggestion for combining the prior art references. No cited references showing a motivation for a ‘skill in the art’ combination or any reference with a ‘means of suggestion’ has been cited for combining any of these patents. “Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in the references themselves or in the knowledge generally available to one of ordinary skill in the art.” MPEP § 2143.01 (*citing In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988)). Nowhere does the Examiner particularly identify any suggestion, teaching, or motivation to combine the prior art references, nor does the Examiner make specific findings concerning the identification of the relevant art, the level of ordinary skill in the art, the nature of the problem to be solved, or other findings to support a proper obviousness analysis. See *In Re Dembiczak*, 50 U.S.P.Q. 1614, 1618 (Fed. Cir. 1999). Because it is improper to use the present application as a means for suggestion for combining the prior art, Applicant respectfully requests claims 1 – 9 and claims 11 – 19 be allowed for issuance.

Additionally, the combination of the rigid flat attachment position of Mandigo with the applicator material of Lops teaches away from the present invention of Applicant as the hypothetical combination does not produce a cleaning tool which can effectively clean the interior

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of a paintball marker by conforming to the interior diameter of the barrel. Therefore, Applicant respectfully requests reconsideration of claims 1 – 9 and claims 11 – 19.

The Examiner further rejected Claim 20 under 35 U.S.C. 103(a) as being unpatentable over Stamm in view of Baldwin. Stamm teaches the use of a gun cleaning device with a coupling member (14) with a circular aperture for the scraper. However, Stamm fails to teach the use of a coupling member with a pear-shaped aperture. The pear-shaped aperture of Applicant allows the invention to pivot perpendicularly, which is not shown by Stamm. This structural distinction shows that the aperture of Stamm cannot be pear-shaped. The combination of the material of Baldwin and the scraper attachment of Stamm fail to teach a cleaning tool having a pear-shaped aperture as disclosed by Applicant. The claim of Applicant's invention are expressly drawn and limited to a cleaning tool having a pear-shaped aperture. Neither the prior art cited by the Examiner nor the hypothetical combination of Stamm and Baldwin teach the use of a cleaning tool with a pear-shaped aperture.

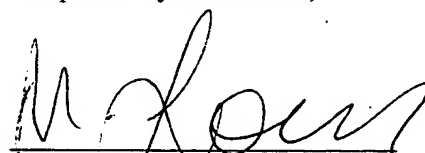
Further, it is improper to combine references without a teaching, motivation, or suggestion found in the prior art for combining the references. As noted by the substantial authority covered in MPEP § 2145, § 2143.01, and the decisions of the Federal Circuit, it is improper to use the present application as a means for suggestion for combining the prior art references. No cited references showing a motivation for a 'skill in the art' combination or any reference with a 'means of suggestion' has been cited for combining any of these patents. "Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in the

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references themselves or in the knowledge generally available to one of ordinary skill in the art.” MPEP § 2143.01 (*citing In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988)). Nowhere does the Examiner particularly identify any suggestion, teaching, or motivation to combine the prior art references, nor does the Examiner make specific findings concerning the identification of the relevant art, the level of ordinary skill in the art, the nature of the problem to be solved, or other findings to support a proper obviousness analysis. See *In Re Dembiczak*, 50 U.S.P.Q. 1614, 1618 (Fed. Cir. 1999). Because it is improper to use the present application as a means for suggestion for combining the prior art, Applicant respectfully requests claim 20 be allowed for issuance.

Applicant respectfully believes that this Amendment resolves all withstanding issues and earnestly solicits a telephone conference to expeditiously resolve any subsequent issues. Applicant respectfully believes that the amendments have addressed the Examiner’s issues and believes the newly amended claims are ready for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



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